

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

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SHAYANNA MARIE GRENZ,

Plaintiff,

vs.

CHARLES DONALD HARMING  
and INTERSTATE  
TELECOMMUNICATIONS  
COOPERATIVE, INC.,

Defendants.

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CIV. 18-4161

**COMPLAINT AND  
DEMAND FOR JURY TRIAL**

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Plaintiff ShayAnna Grenz, by and through her counsel, and for her complaint against  
Defendants, states and alleges as follows:

**NATURE OF ACTION**

1. This is an action for personal injuries and damages suffered by Plaintiff  
ShayAnna Grenz arising out of a motor vehicle accident between Ms. Grenz and Charles  
Harming on March 13, 2017, in Lake Benton Township, Minnesota. The motor vehicle accident  
was caused by the negligence of Defendant Harming. Defendant Harming was acting within the  
course and scope of his employment with Interstate Telecommunications Cooperative, Inc., at  
the time of the accident.

**PARTIES**

2. Plaintiff ShayAnna Grenz is a resident of Lincoln County, Minnesota, and a  
citizen of the State of Minnesota.

3. Defendant Charles Donald Harming is a resident of Elkton, Brookings County, South Dakota, and a citizen of the State of South Dakota.

4. Defendant Interstate Telecommunications Cooperative, Inc., is a South Dakota corporation with its principal place of business in Clear Lake, Deuel County, South Dakota.

### **VENUE AND JURISDICTION**

5. Jurisdiction is proper with this court pursuant to 28 U.S.C. § 1332 based upon diversity of the parties. The amount in controversy exceeds the sum of \$75,000.00.

6. Venue is proper with this court pursuant to 28 U.S.C. § 1391(b)(1) as the Defendants are residents of the State of South Dakota.

### **FACTS**

7. On March 13, 2017, Grenz was traveling southbound on US Highway 75 in Lincoln County, Minnesota.

8. At that same time, Defendant Harming was traveling westbound on County Road 9 in Lincoln County, Minnesota.

9. At the intersection of US Highway 75 and County Road 9, there was a stop sign for westbound drivers which provided the right-of-way for cars traveling on US Highway 75.

10. As Grenz approached the intersection of US Highway 75 and County Road 9, Defendant Harming negligently failed to yield the right-of-way to Grenz and entered the intersection of US Highway 75 and County Road 9 directly in front of Grenz as she was traveling southbound through the intersection.

11. As a result of the negligence of Defendant Harming, the vehicle driven by Grenz collided with the vehicle driven by Defendant Harming.

**NEGLIGENCE**

12. The collision was caused by the carelessness and negligence of Defendant Harming including, but not limited to, the following acts and omissions. 1) failing to yield the right-of-way to Grenz; 2) failing to properly stop at the stop sign which controlled the intersection of US Highway 75 and County Road 9; 3) carelessly and negligently failing to keep his automobile under control at all times; 4) carelessly and negligently operating, maintaining and controlling his motor vehicle without keeping a sufficient lookout for other vehicles on the roadway; and 5) otherwise operating a motor vehicle in a careless and negligent manner.

13. As a direct, proximate and legal result of the negligent acts and omissions of Defendant Harming in causing the collision, Grenz sustained serious and permanent injuries; has been required, and will continue to require, extensive medical treatment; has incurred, and will continue to incur in the future, medical expenses; has, and will continue in the future, to suffer pain and physical and mental suffering; and has suffered lost income in the past and will continue to suffer lost income in the future. As a direct, proximate and legal result of the negligent acts and omission of Defendant Harming, Grenz has incurred past medical expenses in excess of \$4,000 and damages in excess of \$75,000.

**NEGLIGENCE PER SE**

14. Pursuant to Minnesota Statute 169.20 Subd. 3(b), the driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected at one or more entrances and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard.

15. Defendant Harming operated his vehicle in violation of Minnesota Statute 169.20 Subd. 3(b) when he failed to properly stop at the stop sign controlling westbound traffic into the

intersection of US Highway 75 and County Road 9, and failed to yield to the vehicle operated by Grenz which was within the intersection or approaching so closely as to constitute an immediate hazard.

16. Upon information and belief, Defendant Harming was charged with failing to yield in violation of Minnesota Statute 169.20 Sub. 3(b) and pled guilty to that charge.

17. Defendant Harming's violation of Minnesota Statute 169.20 Subd. 3(b) constitutes negligence per se.

18. Defendant Harming's negligence per se was a direct and proximate cause of the motor vehicle collision between Defendant Harming and Grenz.

19. As a direct, proximate and legal result of the negligence per se of Defendant Harming in causing the collision, Grenz sustained serious and permanent injuries; has been required, and will continue to require, extensive medical treatment; has incurred, and will continue to incur in the future, medical bills; has, and will continue in the future, to suffer pain and physical and mental suffering; and has suffered lost income in the past and will continue to suffer lost income in the future. As a direct, proximate and legal result of the negligence per se of Defendant Harming, Grenz has incurred past medical expenses in excess of \$4,000 and damages in excess of \$75,000.

20. Pursuant to Minnesota Statute 65B.51 Subd. (3), Plaintiff has met one or more of the prerequisites necessary to recover damages for non-economic detriment.

#### **VICARIOUS LIABILITY**

21. At the time of the accident between Defendant Harming and Grenz, Defendant Harming was acting within the course and scope of his employment with Defendant Interstate Telecommunications Cooperative, Inc.

22. Defendant Interstate Telecommunications Cooperative, Inc. is vicariously liable for the negligent acts of Defendant Harming which caused the collision between Defendant Harming and Grenz and the injuries suffered by Grenz as a direct and proximate result of the motor vehicle collision.

23. As a result of the negligence of Defendant Harming, Defendant Harming and Defendant Interstate Telecommunications Cooperative, Inc. are liable to Grenz in an amount in excess of \$75,000.

WHEREFORE, Grenz demands judgment against Defendant Harming and Defendant Interstate Telecommunications Cooperative, Inc. in an amount in excess of \$75,000 plus interest and costs and such further and other relief as the Court deems just and equitable.

Dated at Sioux Falls, South Dakota, this 6 day of December, 2018.

EVANS, HAIGH & HINTON, L.L.P.

  
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**JURY DEMAND**

Plaintiff demands trial by jury on all issues so triable in this action.

A handwritten signature in blue ink, appearing to be "M. J.", is written above a horizontal line.

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

ShayAnna Marie Grenz

(b) County of Residence of First Listed Plaintiff Lincoln County, MN  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Mark W. Haigh, Evans Haigh & Hinton, LLP, P. O. Box 2790,  
Sioux Falls, SD 57101-2790  
(605) 275-9599

## DEFENDANTS

Charles Donald Harming and Interstate Telecommunications Cooperative, Inc.

County of Residence of First Listed Defendant Brookings County, SD  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1            | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Tort Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 1332

Brief description of cause:

Personal injury caused by motor vehicle accident

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
75,000.00

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE N/A

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

## FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.